

Senate File 240 - Reprinted

SENATE FILE 240
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1086)

(As Amended and Passed by the Senate March 22, 2011)

A BILL FOR

1 An Act relating to matters under the purview of the alcoholic
2 beverages division of the department of commerce, and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 24, Code 2011, is
2 amended by striking the subsection.

3 Sec. 2. Section 123.3, Code 2011, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 014A. "*Grape brandy*" means brandy produced
6 by the distillation of fermented grapes or grape juice.

7 Sec. 3. Section 123.41, Code 2011, is amended to read as
8 follows:

9 **123.41 Manufacturer's license.**

10 1. Upon application in the prescribed form and accompanied
11 by a fee of three hundred fifty dollars, the administrator may
12 in accordance with this chapter grant and issue a license,
13 valid for a one-year period after date of issuance, to a
14 manufacturer which shall allow the manufacture, storage, and
15 wholesale disposition and sale of alcoholic liquors to the
16 division and to customers outside of the state.

17 2. As a condition precedent to the approval and granting of
18 a manufacturer's license, an applicant shall file a statement
19 under oath with the division that the applicant is a bona fide
20 manufacturer of alcoholic liquors, and that the applicant
21 will faithfully observe and comply with all laws, rules, and
22 regulations governing the manufacture and sale of alcoholic
23 liquor.

24 ~~2.~~ 3. A person who holds an experimental distilled spirits
25 plant permit or its equivalent issued by the federal bureau
26 of alcohol, tobacco and firearms alcohol and tobacco tax and
27 trade bureau of the United States department of the treasury
28 may produce alcohol for use as fuel without obtaining a
29 manufacturer's license from the division.

30 4. A violation of the requirements of this section shall
31 subject the licensee to the general penalties provided in this
32 chapter and shall constitute grounds for imposition of a civil
33 penalty or suspension or revocation of the license after notice
34 and opportunity for a hearing pursuant to section 123.39 and
35 chapter 17A.

1 Sec. 4. Section 123.43A, subsection 8, Code 2011, is amended
2 to read as follows:

3 8. Micro-distilled spirits purchased at a micro-distillery
4 shall not be consumed ~~within three hundred feet of a~~
5 ~~micro-distillery~~ or on any property owned, operated, or
6 controlled by a micro-distillery.

7 Sec. 5. NEW SECTION. **123.46A Delivery of alcoholic**
8 **beverages by retailers.**

9 1. Licensees and permittees authorized to sell alcoholic
10 liquor, wine, or beer in original unopened containers for
11 consumption off the licensed premises may deliver alcoholic
12 liquor, wine, or beer to a home or other designated location in
13 this state. Deliveries shall be limited to alcoholic beverages
14 authorized by the licensee's or permittee's license or permit.

15 2. All deliveries of alcoholic liquor, wine, or beer shall
16 be subject to the following requirements and restrictions:

17 a. Payment for the alcoholic liquor, wine, or beer shall be
18 received on the licensed premises at the time of order.

19 b. Alcoholic liquor, wine, or beer delivered to a person
20 shall be for personal use and not for resale.

21 c. Deliveries shall only be made to persons in this state
22 who are twenty-one years of age or older.

23 d. Deliveries shall not be made to a person who is
24 intoxicated or is simulating intoxication.

25 e. Deliveries shall occur between 6:00 a.m. and 10:00 p.m.
26 Monday through Saturday, and between 8:00 a.m. and 10:00 p.m.
27 Sunday.

28 f. Delivery of alcoholic liquor, wine, or beer shall be made
29 by the licensee or permittee, or the licensee's or permittee's
30 employee, and not by a third party.

31 g. Delivery personnel shall be twenty-one years of age or
32 older.

33 h. Deliveries shall be made in a vehicle owned, leased, or
34 under the control of the licensee or permittee.

35 i. Valid proof of the recipient's identity and age shall

1 be obtained at the time of delivery, and the signature of a
2 person twenty-one years of age or older shall be obtained as a
3 condition of delivery.

4 *j.* Licensees and permittees shall maintain records
5 of deliveries which include the quantity delivered, the
6 recipient's name and address, and the signature of the
7 recipient of the alcoholic liquor, wine, or beer. The records
8 shall be maintained on the licensed premises for a period of
9 three years.

10 3. A violation of this section or any other provision of
11 this chapter shall subject the licensee or permittee to the
12 penalty provisions of section 123.39.

13 4. Nothing in this section shall impact the direct shipment
14 of wine as regulated by section 123.187.

15 Sec. 6. Section 123.50, Code 2011, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 5. If an employee of a licensee or
18 permittee violates section 123.49, subsection 2, paragraph
19 "h", the licensee or permittee shall not be assessed a penalty
20 under subsection 3, and the violation shall be deemed not to
21 be a violation of section 123.49, subsection 2, paragraph
22 "h", for the purpose of determining the number of violations
23 for which a penalty may be assessed pursuant to subsection
24 3, if the employee holds a valid certificate of completion
25 of the alcohol compliance employee training program pursuant
26 to section 123.50A at the time of the violation, and if the
27 violation involves selling, giving, or otherwise supplying
28 any alcoholic beverage, wine, or beer to a person between
29 the ages of eighteen and twenty years of age. A violation
30 involving a person under the age of eighteen years of age
31 shall not qualify for the bar against assessment of a penalty
32 pursuant to subsection 3, for a violation of subsection 123.49,
33 subsection 2, paragraph "h". A licensee or permittee may assert
34 only once in a four-year period the bar under this subsection
35 against assessment of a penalty pursuant to subsection 3, for a

1 violation of subsection 123.49, subsection 2, paragraph "h",
2 that takes place at the same place of business location.

3 Sec. 7. NEW SECTION. 123.50A Alcohol compliance employee
4 training program.

5 1. If sufficient funding is appropriated, the division
6 shall develop an alcohol compliance employee training program,
7 not to exceed two hours in length for employees and prospective
8 employees of licensees and permittees, to inform the employees
9 about state and federal liquor laws and regulations regarding
10 the sale of alcoholic liquor, wine, or beer to persons under
11 legal age, and compliance with and the importance of laws
12 regarding the sale of alcoholic liquor, wine, or beer to
13 persons under legal age. In developing the alcohol compliance
14 employee training program, the division may consult with
15 stakeholders who have expertise in the laws and regulations
16 regarding the sale of alcoholic liquor, wine, or beer to
17 persons under legal age.

18 2. The alcohol compliance employee training program shall
19 be made available to employees and prospective employees of
20 licensees and permittees at no cost to the employee, the
21 prospective employee, or the licensee or permittee, and in a
22 manner which is as convenient and accessible to the extent
23 practicable throughout the state so as to encourage attendance.
24 Contingent upon the availability of specified funds for
25 provision of the program, the division shall schedule the
26 program on at least a monthly basis and the program shall be
27 available at a location in at least a majority of counties.

28 3. Upon completion of the alcohol compliance employee
29 training program, an employee or prospective employee shall
30 receive a certificate of completion, which shall be valid for
31 a period of two years, unless the employee or prospective
32 employee is convicted of a violation of section 123.49,
33 subsection 2, paragraph "h", in which case the certificate shall
34 be void.

35 4. The division shall also offer periodic continuing

1 employee training and recertification for employees who have
2 completed initial training and received an initial certificate
3 of completion as part of the alcohol compliance employee
4 training program.

5 Sec. 8. Section 123.56, subsections 1, 2, and 3, Code 2011,
6 are amended to read as follows:

7 1. Subject to rules of the division, manufacturers of
8 native wines from grapes, cherries, other fruits or other fruit
9 juices, vegetables, vegetable juices, dandelions, clover,
10 honey, or any combination of these ingredients, holding a
11 class "A" wine permit as required by this chapter, may sell,
12 keep, or offer for sale and deliver the wine. ~~Sales may be~~
13 ~~made at retail for off-premises consumption when sold on the~~
14 ~~premises of the manufacturer, or in a retail establishment~~
15 ~~operated by the manufacturer. Sales may also be made to class~~
16 ~~"A" or retail wine permittees or liquor control licensees as~~
17 ~~authorized by the class "A" wine permit. Notwithstanding any~~
18 ~~other provision of this chapter, manufacturers of native wine~~
19 ~~may purchase and possess grape brandy from the division for the~~
20 ~~sole purpose of manufacturing wine.~~

21 2. Native wine may be sold at retail for off-premises
22 consumption when sold on the premises of the manufacturer,
23 or in a retail establishment operated by the manufacturer.
24 Sales may also be made to class "A" or retail wine permittees
25 or liquor control licensees as authorized by the class "A"
26 wine permit. A manufacturer of native wines shall not sell
27 the wines other than as permitted in this chapter and shall
28 not allow wine sold to be consumed upon the premises of the
29 manufacturer. However, prior to sale native wines may be
30 sampled on the premises where made, when no charge is made
31 for the sampling. A person may manufacture native wine for
32 consumption on the manufacturer's premises, when the wine or
33 any part of it is not manufactured for sale.

34 3. A manufacturer of native wines may ship wine in closed
35 containers to individual purchasers inside ~~and outside~~ this

1 state by obtaining a wine direct shipper license pursuant to
2 section 123.187. ~~The manufacturer shall label the package~~
3 ~~containing the wine with the words "deliver to adults only"~~.

4 Sec. 9. Section 123.57, Code 2011, is amended to read as
5 follows:

6 **123.57 Examination of accounts.**

7 The financial condition and transactions of all offices,
8 departments, warehouses, and depots of the division shall be
9 examined at least once each year by the state auditor and at
10 shorter periods if requested by the administrator, governor,
11 commission, or executive council the general assembly's
12 standing committees on government oversight.

13 Sec. 10. REPEAL. Section 123.43, Code 2011, is repealed.